IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 6638 of 2005
Date of Decision: Oct.28,2006

Roop Singh ..... Petitioner

Versus

District Development & Panchayat Officer,
Bathinda and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. Sandeep Chopra, Advocate
for the petitioner.

...

ASHUTOSH MOHUNTA, J. (Oral)

The petitioner has prayed for quashing the order dated 27.4.1999 passed by the District Development & Panchayat Officer, Bathinda, exercising the powers of the Collector (Annexure P-2) and the order dated 10.5.2000 passed by the Commissioner (Annexure P-3) as well as the order dated 15.2.2005 also passed by the Commissioner (Annexure P-4) in review, by which the petitioner has been ordered to be evicted from the land in dispute.

The Gram Panchayat Bangi Ruldu, District Bathinda, filed a petition under Section 4 of the Punjab Public Premises and Land (Eviction and Rent Recovery Act), 1973 regarding eviction of the present petitioner from the area measuring 62 kanals 8 marlas situated in village Bangi Ruldu before the DDPO, Bathinda. It was averred that Roop Singh was in unauthorized possession over the suit land without any right or title and that the land belongs to the Gram Panchayat. It was further averred that the land is reserved for common purposes of the village and the Gram Panchayat is looking after the land.

A written statement was filed wherein it was stated that the land belongs to the proprietors and, therefore, the Gram Panchayat is nothing to do with the same and, hence, the petition for ejectment is liable to be dismissed.

The Collector vide order dated 27.4.1999 held that the present petitioner was in unauthorized occupation of the suit land and, accordingly, ordered his eviction. An appeal was filed before the Commissioner who also upheld the same vide order Annexure P-3. Review application was also filed which was also dismissed by the Commissioner.

Counsel for the petitioner has argued that the revenue entry in the column of ownership in the Jamabandi is `Jumla Malkan Hasab Rasad Khewat' and such type of lands do not vest in the Panchayat as the land is not Shamlat Deh and, therefore, the Gram Panchayat cannot seek ejectment. It is contended that `Jumla Mushtarka Malkan' is the land which vests in the proprietory body of the co-sharers and it vests in them as per their share and this legal position has been ignored by both the Collector as well as the Commissioner while passing the impugned orders.

A perusal of the impugned orders shows that although the entry in the revenue record was `Jumla Malkan Hasab Rasad Khewat' but the land was being used for common purposes. The land was being managed and controlled by the Gram Panchayat and the income derived from the land was spent on the welfare of the residents of the village. Even if the entries in the revenue record are recorded as `Jumla Malkan Hasb Rasad Raqba Khewat' still if the land is being used for common purposes the management and control would be that of the Gram Panchayat and eviction can always be sought against the unauthorized occupants.

The petitioner in his cross-examination before the Collector had admitted that he is the owner of only one kanal of land. It makes it abundantly clear that apart from one kanal of land he is in unauthorized occupation of the remaining land i.e. 61 kanals and 8 marlas. The petitioner has not been able to prove as to how he came into possession of the said land and no evidence has been adduced by him with regard to his ownership over the suit property.

In view of the above, we find no infirmity in the impugned orders (Annexures P-2, P-3 and P-4) and, accordingly, the writ petition is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

28.10.2006 **(NIRMAL YADAV)**
rupi **JUDGE**